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OCT 25 2007

In re Application of

Jacob DeBaan

Application No. 10/662490

Filing or 371(c) Date: 09/15/2003

Attorney Docket Number:

BLUE.65449

**OFFICE OF PETITIONS**

ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)", filed August 24, 2007.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 29, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned April 30, 2007. A Notice of Abandonment was mailed August 21, 2007.

**Applicant's Assertion**

Applicant files the present petition and asserts that a timely reply to the Office action, to wit – an Amendment, was filed on April 26, 2007, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of the Amendment, and a copy of his return-receipt postcard acknowledging receipt by this Office of an Amendment on April 30, 2007.

A review of the Amendment reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on April 26, 2007. The Certificate of Mailing was executed by Susan P. Cueto.

While Applicant has filed sufficient evidence to demonstrate the filing of the Amendment, the date of the Amendment filing has not been adequately established. 37 CFR 1.8(b)(3) requires a

statement which attests on a personal knowledge basis to the timely mailing of the Reply; however, a statement from Ms. Susan P. Cueto has not been provided. Accordingly, it is unclear whether the reply was timely, or whether an extension of time and fee are required.

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition which includes a statement from Ms. Cueto which attests on a personal knowledge basis to the timely mailing of the Amendment.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

By FAX: (571) 273-8300  
Attn: Office of Petitions

By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney  
Office of Petitions